

**Remarks/Arguments**

This is a response to the office action mailed August 23, 2006. Claims 6-17 are pending in the application.

Claims 6-11 were rejected under 35 USC 101, because the invention is said to be directed to non-statutory matter. Claim 6 was rejected because of its claiming a non-tangible result, according to the Examiner. Claim 6 is amended with a final result that is useful, tangible and concrete, which is "wherein the substantially constant light intensity provided across the width of the flow channel provides for consistent measurement accuracy across the width of the flow channel". This characteristic is noted in the specification, for example, at about the middle portion of page 3, the top portion of page 20, and the top portion of page 32.

Claims 7-11 were rejected for reasons similar to the reason for the rejection of claim 6. Since claim 6 should now be directed to statutory subject matter and claims 7-11 depend from the allowable claim, then these claims should be allowable.

Claims 6 and 12 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 24-26 and 41-42 of US Patent No. 6,549,275B1. A terminal disclaimer is hereby submitted to overcome the double patenting rejection. Claims 7-11 and 13-17 should be allowable since they are dependent upon now allowable base claims 6 and 12, respectively.

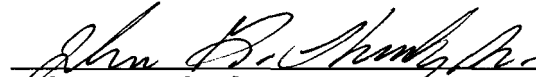
Withdrawn claims 1-5 are canceled.

The pending claims should now be allowable.

Application Serial No. 10/759875  
Amendment dated November 21, 2006

Respectfully submitted,

Dated: 11-21-06

  
John G. Shudy, Jr., Reg. No. 31,214  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, MN 55403-2402  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349